

SUPPORT FOR THE AMENDMENTS

The amendments to the claims and newly-added claims 46-74 are supported by the specification and the original claims. No new matter is believed to have been added to the present application by the amendments submitted above.

REMARKS

Claims 1-7 and 34-74 are pending. Favorable reconsideration is respectfully requested.

The present invention relates to an active substance combination, comprising:

- (A) at least one compound with neuropeptide Y (NPY) -receptor affinity, and
- (B) at least one compound with 5-HT₆ receptor affinity.

See Claim 1.

Regarding the rejection under 35 U.S.C. §101, Applicants will address this rejection in pending application serial No. 10/566,100. Accordingly, Applicants request that this rejection be held in abeyance in the present application.

The rejection of the claims under 35 U.S.C. §112, second paragraph, is believed to be obviated by the amendment submitted above. The term “medicament” has been replaced with --pharmaceutial composition--. The Markush language has been modified.

In view of the foregoing, the claims are definite within the meaning of 35 U.S.C. §112, second paragraph. Withdrawal of this ground of rejection is respectfully requested.

The rejection of the claims under 35 U.S.C. §112, first paragraph, is believed to be obviated by the amendments submitted above.

The use claims have been canceled in favor of method claims.

The specification provides a detailed teaching regarding how to prepare the combination set forth in Claim 1 and how to administer the combination to treat all of conditions set forth in the claims. Accordingly, one skilled in the art reading the present specification would appreciate that the present application provides an adequate written description of the invention. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of the claims under 35 U.S.C. §103(a) over Bruns in view of Merce-Vidal et al. and Caldirola et al. is respectfully traversed. The cited references fail to suggest the claimed combination.

According to In re Wright, 848 F.2d 1216 (Fed. Cir. 1988) the references that allegedly make an invention unpatentable for obviousness should show or suggest the properties and results of the invention. The juxtaposition of references that when read together would comprise all the elements of an invention is not enough to prevent its patentability absent this suggestion. See KSR International v. Teleflex Inc., 550 US 398 (2007). The examiner has failed to establish the case that a combination as the one disclosed in the patent application would be obvious in view of the cited references. This also applies to the formulation made with the combination of compounds A and B.

The Examiner has noted that Bruns, Merce-Vidal et al. and Caldirola et al. each disclose compounds used to treat CNS disorders. However, as the Examiner recognizes the compounds described in each Bruns and Merce-Vidal et al./Caldirola et al. have different receptor specificity. There is no teaching or suggestion in any of the cited reference to combine a compound with neuropeptide Y (NPY) -receptor affinity and a compound with 5-HT₆ receptor affinity with the expectation that such a combination would be therapeutically effective.

In view of the foregoing, the combination of Bruns in view of Merce-Vidal et al. and Caldirola et al. fails to suggest the claimed combination. Accordingly, the subject matter of the pending claims is not obvious over that combination of references. Withdrawal of this ground of rejection is respectfully requested.

Application No. 10/566,402
Reply to Office Action of March 29, 2010

Applicants submit that the present application is in condition for allowance. Early notice to this effect is earnestly solicited.

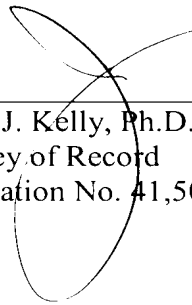
Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)



James J. Kelly, Ph.D.
Attorney of Record
Registration No. 41,504